FILED

NOT FOR PUBLICATION

DEC 14 2005

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,	No. 04-30333
Plaintiff - Appellee,	D.C. No. CR-03-00262-EJL
v.	
MICHAEL D. VALLEE,	MEMORANDUM[*]
Defendant - Appellant.	

Appeal from the United States District Court
for the District of Idaho
Edward J. Lodge, District Judge, Presiding

Submitted December 7, 2005[**]
Seattle, Washington

Before: GOULD and BERZON, Circuit Judges, and SCHWARZER, District
Judge.[***]

---

[*]   This disposition is not appropriate for publication and may not be cited to
or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

[**]   This panel unanimously finds this case suitable for decision without oral
argument. *See* Fed. R. App. P. 34(a)(2).

[***]   The Honorable William W Schwarzer, Senior United States District
Judge for the Northern District of California, sitting by designation.

Michael Vallee appeals his 30-month sentence imposed after his guilty-plea conviction on one count of sexual abuse of a minor within the boundaries of the Coeur d'Alene Indian Reservation in violation of 18 U.S.C. §§ 2243(a) and 1153. We have jurisdiction under 28 U.S.C. § 1291.

The district court sentenced Vallee before the U.S. Supreme Court held that the Sentencing Guidelines were advisory in *United States v. Booker*, 543 U.S. 220, ----, 125 S. Ct. 738, 764, 160 L. Ed. 2d 621 (2005). The record does not indicate how the district court would have proceeded if it had known the Guidelines were advisory. Accordingly, we grant a limited remand under *United States v. Ameline*, 409 F.3d 1073 (9th Cir. 2005) (en banc), to determine whether the district court would impose a different sentence under the now-advisory Guidelines. *See United States v. Moreno-Hernandez*, 419 F.3d 906, 916 (9th Cir. 2005) (applying *Ameline*'s limited remand procedure to cases involving non-constitutional error under *Booker*).

REMANDED.